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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/431,833	11/02/1999	JOSEPH PHILLIP BIGUS	IBM/02B	9272

7590

07/01/2004

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EXAMINER

BACKER, FIRMIN

ART UNIT PAPER NUMBER

3621

DATE MAILED: 07/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/431,833	BIGUS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Firmin Backer	3621	<i>MB</i>

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 April 2004.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 54-63 and 104-112 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 54-63 and 104-112 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

*Response to Arguments*

1. In view of the Appeal Brief filed on April 15<sup>th</sup>, 2004, PROSECUTION IS HEREBY REOPENED. An action is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

*Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 54-63 and 104-112 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al (U.S. Patent No. 5,550,145) in view of Liepow (U.S. Patent No 6,148,067)

3. As per claims 54, 60, and 61, Hoffman et al teach a method comprising determining at least one attribute (*biometric sample/information*) related to the unknown party, comparing (*comparing*) the attribute for the unknown party with attributes related to a plurality of known parties (*stored biometric information/sample*), and identifying (*identifying*) the unknown party as the known party having the attribute which most closely matches that of the unknown party and a signal bearing media bearing the program (*see abstract, fig 1 and 2, column 7 line 50-59, 8 line 11-51, 9 line 11-44, 12 line 23-13 line 34, 71 line 5-20, claim 1*). Hoffman et al fail to teach an inventive concept of identifying an unknown party interacting with an intelligent agent.

However, Liepow teaches an inventive concept of identifying an unknown party interacting with an intelligent agent (*see abstract, fig 1, column 9-50*). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hoffman et al's inventive concept to include Liepow inventive concept of identifying an unknown party interacting with an intelligent agent because this would have provided a more secure, productive and adaptive environment for conducting commercial transaction,

4. As per claims 55 and 108, Hoffman et al teach a method of determines a plurality of attributes related to the unknown party, and compares the plurality of attributes for the unknown party with those of the plurality of known parties (*see abstract, fig 1 and 2, column 7 line 50-59, 8 line 11-51, 9 line 11-44, 12 line 23-13 line 34, 71 line 5-20, claim 1*).

5. As per claims 56 and 109, Hoffman et al teach a method wherein the comparing step includes the step of accessing a database including a plurality of records, each record associated with a known party and including the plurality of attributes related thereto (*see abstract, fig 1*

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*and 2, column 7 line 50-59, 8 line 11-51, 9 line 11-44, 12 line 23-13 line 34, 71 line 5-20, claim 1).*

6. As per claims 57, 104, 105 and 110, Hoffman et al teach a method wherein each of the plurality of attributes has a weighting factor associated therewith, wherein the comparing step calculates an accumulated weighting factor for each known party by summing the weighting factors of the attributes of the known party which match those of the unknown party, and wherein the identifying step identifies the unknown party as the known party with the largest accumulated weighting factor (*see abstract, fig 1 and 2, column 7 line 50-59, 8 line 11-51, 9 line 11-44, 12 line 23-13 line 34, 71 line 5-20, claim 1*).

7. As per claims 58, 106 and 111, Hoffman et al teach a method wherein the unknown party is an intelligent agent configured to conduct electronic transactions, and wherein the plurality of attributes is selected from the group consisting of an agent name, a client name, a bank name, a bank account number, a credit card number, a home base location, an agent program name, a location or name of a source with which the unknown party communicates, and combinations thereof (*see abstract, fig 1 and 2, column 7 line 50-59, 8 line 11-51, 9 line 11-44, 12 line 23-13 line 34, 71 line 5-20, claim 1*).

8. As per claims 59, 107, 112, Hoffman et al teach a method, wherein the unknown party is an intelligent agent, and wherein the determining step includes the step of scanning program code for the unknown party to determine attributes thereof (*see abstract, fig 1 and 2, column 7 line 50-59, 8 line 11-51, 9 line 11-44, 12 line 23-13 line 34, 71 line 5-20, claim 1*).

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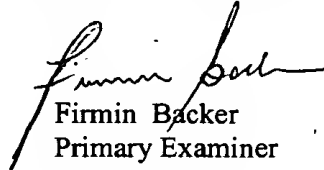
9. As per claims 62 and 63, Hoffman et al teach a program product wherein the signal bearing media is transmission recordable type media (*see abstract, fig 1 and 2, column 7 line 50-59,8 line 11-51, 9 line 11-44, 12 line 23-13 line 34, 71 line 5-20, claim 1*).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Firmin Backer whose telephone number is (703) 305-0624. The examiner can normally be reached on Mon-Thu 9:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (703) 305-9768. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Firmin Backer  
Primary Examiner  
Art Unit 3621

June 23, 2004